

REMARKS

Claims 1 - 22 are in this application and presented for consideration. Applicant has added three new independent claims presenting two independent claims in excess of 3 and two claims in excess of 20. Applicant requests that the fee be charged for the additional claims presented.

By this Amendment, Applicant has presented independent claim 22 including several features from allowable claim 17. Additionally, Applicant has revised the original claims. Revised claim 7 includes features of original claim 1 as well as the two locking members being substantially identical components as well as the feature that these locking members extend in substantially opposite directions. Revised claim 11 includes the original subject matter as well as the feature of the locking members including engaging contours at one locking member arm and another locking member arm connected to the adjusting member. Specifically each of the locking members have arms connected to the same adjusting member. New claim 19 includes features similar to original claim 1 and also highlighting the structure of the adjusting member forming the only adjusting means which is coupled to each of the two locking members. New claims 20 and 21 highlight further features which are now dependent on a new claim 19.

The Examiner has objected to the specification as including references to the claims. Applicant notes that the Preliminary Amendment filed at the time of entry of the National Phase (the filing of the present application) includes a substitute specification with a marked-up copy showing changes which are present in the substitute specification. The substitute

specification removes all references to the claims. Accordingly, it is Applicant's position that the issues raised by the Examiner have already been addressed.

The Examiner has objected to the drawings as not including a reference character mentioned in the disclosure.

Applicant proposes a correction to Fig. 2 as shown in the replacement drawing with the spring and reference number 6.2. Approval of this correction is requested.

Claims 1 - 18 have been rejected as being indefinite.

Applicant has now revised the claims to address the issues raised by the Examiner. It is Applicant's position that the claims as now presented are clear and definite and fully conform with the requirements of the statute. Applicant wishes to thank the Examiner for the careful reading of the claims and for the helpful comments.

Claims 1 - 7 and 10 - 16 have been rejected as being anticipated by U.S. 3,367,204 to Chadwick II.

US 3,367,204 (Chadwick II) discloses a gear selector mechanism 10 comprising a gear selector lever 11. Two actuating members 15 and 16 are fixedly connected to the selector lever 11. The upper actuating member 15 is operably linked to a low range transmission shaft 3 by a rod 17 and a crank 18. The lower actuating member 16 is operably linked to a high range transmission shaft 4 by a rod 19 and a crank 20. Two spaced parallel guide members 22 are fixedly mounted by means of studs 25 affixed to a mounting bracket 25a which, in turn is bolted to a transmission housing 2. Each of the guide members 22 are provided with two arcuate guide surfaces 23 having a centrally disposed semi-circular recess 24. In a first

operating condition, for operating the low range transmission shaft 3, the lower actuating member 16 is fully engaged by the lower recess 24, whereas the upper actuating member 15 is free to move along the upper guide surface 23. In a second operating condition, for operating the high range transmission shaft 4, the upper actuating member 15 is fully engaged by the upper recess 24, whereas the lower actuating member 16 is free to move along the lower guide surface 23.

According to Chadwick II, the guide members 22 are fixedly mounted to the transmission housing 2 in a torque proof manner (see e.g. column 4, lines 37 to 41 of Chadwick II), whereas the selector lever 11 is movable relative to the transmission housing 2 (see especially Fig. 4-8 of Chadwick II). Hence, the guide members 22 according to Chadwick II cannot be fixed to the selector lever 11.

The invention is different both as to structure and in operation. The locking element 7 according to present claim 1 is associated with the selector lever 1 being mounted in the housing pivotably around at least one axis. As such, the locking element 7 according to the present invention is able to pivot around the at least one axis together with the selector lever 1. However, this is not disclosed by Chadwick II and is not suggested by Chadwick II alone or in combination with the other prior art. The subject matter according to present claim 1 is not anticipated by Chadwick II and is not suggested by Chadwick II.

Further, with respect to present claim 3, each of the two "adjusting members" (bolts attached to the angle levers) according to Chadwick II is coupled to only one angle lever 17, 19 (see Fig. 1 of Chadwick II). However, the only adjusting member according to present

claim 3 is coupled with each and every (at least two) locking member 4, 5. This feature is now also highlighted in revised claim 11. As such, the subject matter according to present claim 3 and claim 11 is not anticipated by Chadwick II and is not suggested by the prior art as a whole.

Accordingly, the Chadwick II fails to teach and fails to suggest the features of original claim 1. Applicant has further clarified claim 1 to clarify the subject matter of the selector lever being locked or blocked by a locking or blocking of the locking element based on the locking element being connected with the selector lever for movement together, and specifically pivoting movement of the locking element with the selector element for locking of the locking element and thereby for locking of the selector lever. As Chadwick II teaches a different arrangement for a different purpose, the reference fails to suggest the combination of features as claimed in claim 1 and claims dependent thereon.

Claim 1 has been rejected as anticipated by Smale in view of JP08-093897 to Inagaki et al.. From the rejection it appears that other claims were intended to be rejected based on this combination of teachings. Accordingly, Applicant responds to the rejection with reference to the various mentioned claims in the Office Action at pages 5 - 6.

US 5,662,001 (Smale) discloses a shift lever lock for a vehicle, comprising a locking member 34 being mounted on a shift lever 20. A locking lever 48 is pivoted to a bracket 40 mounted on the vehicle. Further, a blocking member 42 is pivoted to the bracket 40 and is biased to a vertical direction in order to prevent locking lever 48 from engaging with locking member 34. When the shift lever 20 is moved to REVERSE, a position switch 72 is closed

and the locking member 34 pivots blocking member 42 clockwise in order to release locking lever 48. After closing the position switch 72 and releasing locking lever 48, a control means comprising an over center control linkage 54, a solenoid 66 and an output arm 68 pivots locking lever 48 counterclockwise in order to engage with locking member 34.

However, Smale fails to disclose a second locking member engaging the locking element.

JP 08-093897 (Inagaki et al.) discloses a lock device of a shift lever 1, wherein a first lock piece 5 opens and closes a passage of the shift lever 1 between a neutral position N and a reverse position R. Further, a second lock piece 6 is provided, which opens and closes the passage of the shift lever 1 between a parking position P and the reverse position R. A lock bar 22 is able to move vertically between a lock position and a non-lock position by means of a solenoid 23. In the lock position, the lock bar 22 faces against the first and the second lock pieces 5, 6 and disables their revolution. In the non-lock position, the lock bar 22 does not face against the first and the second lock pieces 5, 6.

However, the person having ordinary skill in the art would not combine the teachings according to Smale and Inagaki et al., since the locking lever (48) according to Smale can be pivoted by means of the solenoid (66) and not by means of the shift lever (20), whereas the lock pieces (5, 6) according to Inagaki et al. are pivoted by means of the shift lever (1) and not by means of the solenoid (23). Further, the locking lever (48) according to Smale has to be pivoted to reach the locking position. However, the lock pieces (5, 6) according to Inagaki et al. are not pivoted to reach the locked state. Therefore, the locking mechanisms according to

Smale and Inagaki et al. are basically different and cannot be combined.

The references present teachings which direct the person of ordinary skill in the art toward different constructions. The combined teaches of the references do not present a direction, incentive or motivation to the person of ordinary skill in the art to provide the combination of features as claimed. The approach of each of the two references is quite different so as to not provide any teaching for selecting certain features while dropping others and combining features as presented in the claims.

Further, a combination of Smale and Inagaki et al. would not lead to locking members (4, 5) being designed as identical components, which are fastened to the housing in the opposite direction (see present claim 7 and page 6, lines 10-11 of the present application). If a second locking lever (48) would be provided in the shift lever lock according to Smale, wherein the second locking lever (48) would be identical to the first locking lever (48) and would be fastened in the opposite direction of the first locking lever (48), a second locking member (34) would be necessary, since the existing locking member (34) according to Smale is able to lock only in one direction (only one locking shoulder 38 is provided). In contrast to this, the only locking element (7) according to the present invention is able to engage with both locking members (4, 5), even if the locking members 4, 5 are identical and are fastened in the opposite direction (two opposite locking shoulders are provided in the locking element 7, see e.g. Fig. 2 and 3 of the present invention).

Furthermore, a combination of Smale and Inagaki et al. would not lead to locking members (4, 5) each having two arms (14, 15) wherein one arm (14) is provided with an engaging contour (10) and the other arm (15) is connected to the adjusting member (6) (see

revised claim 11 and Fig. 2 and page 8, lines 3-11 of the specification), since the locking lever (48) according to Smale does have only one arm, wherein this one arm is provided with the locking shoulder (52) and is connected to the solenoid (66).

Finally, a combination of Smale and Inagaki et al. would not lead to the feature, that the only adjusting means (6) is coupled to the at least two locking members (4, 5). The solenoid (66) according to Smale is connected to the locking lever (48) in order to actuate the same when the shift lever (20) is moved in the REVERSE position (first position). However, according to Inagaki et al. the shift lever (1) has to be locked in two different positions. Thus, a second solenoid (66) has to be provided for actuating a second locking lever (48) in order to lock the shift lever (20) according to Smale in a second position, since the lock bar (22) according to Inagaki et al. is not transferable to the shift lever lock according Smale. In contrast to this, the only adjusting means (6) according to the present invention is coupled to both locking members (4, 5) (see e.g. Fig. 2 of the present invention).

Applicant respectfully requests that the Examiner reconsider the rejections in view of the revised claims and in view of the discussion above. The Examiner is invited to contact Applicant's attorney if a telephone discussion or other interview would promote the early resolution of any issues which remain in this application.

Respectfully submitted
for Applicant,

By:



John James McGlew
Registration No. 31,903
MCGLEW AND TUTTLE, P.C.

JJM:jj/tf
70376.9

Enclosed: (1) Sheet of Drawing
Request to Charge Deposit Account
Petition for One Month Extension of Time

DATED: August 4, 2003
SCARBOROUGH STATION
SCARBOROUGH, NEW YORK 10510-0827
(914) 941-5600

SHOULD ANY OTHER FEE BE REQUIRED, THE PATENT AND TRADEMARK OFFICE
IS HEREBY REQUESTED TO CHARGE SUCH FEE TO OUR DEPOSIT ACCOUNT 13-
0410.